

11/12/2008

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

12 FRED NELLI,

13 Plaintiff,

14 v.

15 FNE MORTGAGE et. al.

16 Defendants.

) **Case No.: C08-03342 JW**

) **JOINT STIPULATION TO DISMISS**
) **WITH PREJUDICE; [PROPOSED**
) **ORDER]**

) **Case Removed: July 10, 2008**

17 **TO THE HONORABLE JAMES WARE:**

18 The Parties, Plaintiff FRED NELLI and Defendant WACHOVIA SAVINGS BANK,
19 FSB AND WACHOVIA MORTGAGE CORPORATION [“WACHOVIA”], stipulate as
20 follows:

21 (1) The Parties have settled this matter and Plaintiff NELLI has executed a Release
22 and Settlement Agreement related to this lawsuit, which is a full and final release of all
23 present, future, unknown and unanticipated injuries, claims, or damages, against these
24 Defendants, including those under California Civil Code Section 1542;

25 (2) Each side agrees to bear its own costs and fees incurred and/ or expended in this
26 litigation; and

27 (3) The matter should be dismissed with prejudice as to Defendant(s) WACHOVIA

1 since plaintiff's claims, and causes of action against said defendants have been resolved.

2 **IT IS SO STIPULATED.**

3 Date: November __, 2008

LAW OFFICES OF
SALLY A. WILLIAMS

5 /s/ Sally A Williams
6 Sally A. Williams, Esq
7 Attorneys for Plaintiff
8 **FRED NELLI**

9 Date: November __, 2008

Reed Smith LLP

11 /s/ Keith Yandell
12 Keith Yandell, Esq
13 Attorneys for Defendants
14 Wachovia Savings Bank, FSB and Wachovia
15 Mortgage Corporation
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ORDER

In light of the above Stipulation of the Parties regarding the resolution of this matter as to Defendants Wachovia and their request that this matter be dismissed as to said defendant with prejudice, and good cause appearing therefore, the Court hereby orders that:


(1) The matter of *FRED NELLI v FNE MORTGAGE, et. al.*, , United States District Court – Northern District, San Jose Division, case number **C08-03342 JW**, is hereby dismissed as to Defendants Wachovia Savings Bank, FSB and Wachovia Mortgage Corporation with prejudice.

(2) Plaintiff FRED NELLI has fully released all present, future, unknown and unanticipated injuries, claims, or damages against said Defendants, including those under California Civil Code Section 1542, arising from or related to the residential property refinance of NELLI's residence including negligence arising from the negotiations leading to the creation of the loan, lending policies and documentations as to Defendants Wachovia as of the date he executed the Release and Settlement Agreement; and

(3) Each side is to bear its own costs and fees incurred or expended in this litigation.

IT IS SO ORDERED. The Court terminates all pending deadlines, hearings and motions.

Date: __ November 12, 2008



HONORABLE JAME WARE, JUDGE
UNITED STATES DISTRICT COURT